



## Policy Title: Learner Mistreatment Policy

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### 1. Background

The University of New Mexico (UNM) School of Medicine (SOM) is committed to ensuring respectful, positive, and inclusive learning environments that are free from learner mistreatment. Such a learning environment should exhibit and promote:

- freedom for learners to ask questions
- respect for diversity and differences
- meaningful, trusting relationships
- protection of civil discourse without fear of retaliation
- freedom from bullying or intimidation
- ability for teachers to provide constructive feedback to learners

The UNM SOM prohibits all forms of learner mistreatment, defined in section 2.

The learning environment at the SOM encompasses the physical, social, and psychological contexts in which learning happens. This includes interactions with faculty, staff, and peers as well as the formal, informal, and hidden curricula. It further encompasses the attitudes, standards, and tone set by the instructor and the institution.

The purpose of this policy is to define the standards of conduct that must guide teachers' treatment of learners and to provide a mechanism by which to address violations of the standards. All learners must be provided with procedures to report violations and to have those violations investigated and acted upon without fear of retaliation.

Interactions between teachers and learners in the education programs offered by the UNM SOM are guided by principles of mutual trust, respect, inclusion, belonging, and professionalism. All learners have the right to study, learn, and work in environments that are free from mistreatment, harassment, discrimination, threats, intimidation, or bullying.

## **2. Definitions/Examples**

For purposes of this policy, the following definitions apply:

- “Learner mistreatment” refers to behavior that, as defined by the Association of American Medical Colleges (AAMC), “may be either intentional or unintentional and occurs when behavior shows disrespect for the dignity of others and unreasonably interferes with the learning process.” Learner mistreatment is when a learner personally experiences or witnesses behavior that negatively impacts their learning. These behaviors can be enacted by anyone in the learning environment and can be targeted towards others, including peers, faculty members, staff, patients, family members of patients, or other individuals in the environment. Examples of conduct that may be considered mistreatment include but are not limited to being:
  - Publicly humiliated
  - Verbally abused
  - Threatened with physical harm or being physically harmed
  - Required to perform personal services
  - Subjected to sexual harassment, unwanted sexual advances, or asked to exchange sexual favors for grades or other rewards
  - Subjected to offensive remarks/names based on gender and/or gender identity, race and/or ethnicity, disability, or sexual orientation
  - Denied opportunities for training or rewards based on gender and/or gender identity, race and/or ethnicity, disability, or sexual orientation
  - Graded because of gender and/or gender identity, race and/or ethnicity, disability, or sexual orientation rather than performance
  - Threatened with retaliation or retaliated against
  - Neglected and/or left out

- “Learner” means any person enrolled in a course, clerkship, or other educational program offered by the SOM. Residents, fellows, and graduate students are considered “learners” as enrollees in full-time or part-time residency, fellowship, or graduate programs at the SOM.
- “Teacher” refers to a full-time or part-time faculty member or any other person who is responsible for evaluating the academic and/or clinical performance of one or more students, residents, fellows, or other learners. Fellows and residents are also considered “teachers” of medical students and of other fellows and residents. A graduate student will be considered a “teacher” if they are teaching or evaluating undergraduate or graduate students. Nurses, technicians, and other hospital staff who teach learners procedures or other clinical skills are considered “teachers.”
- The “community” is defined as any and all sites where UNM medical students, residents, graduate students, fellows, and other learners receive training.

### **3. Jurisdiction**

The Learning Environment Office (LEO) at the SOM is the impartial entity charged with ensuring (1) compliance with all mistreatment-related UNM SOM policies and (2) consistency with procedures that apply to professionalism and mistreatment of learners, including investigations of any allegations of violations of UNM SOM Professionalism and/or Mistreatment Policies.

All SOM learners are in-scope for mistreatment reports submitted to LEO. This includes medical students, residents, fellows, and any degree seeking student in the Research Education Programs or the Health Professions Programs, which include the Emergency Medicine Services, Dental Hygiene, Medical Laboratory Sciences, Occupational Therapy, Physical Therapy, Physician Assistant, Occupational Therapy, and Radiologic Sciences programs.

Reports of mistreatment of faculty or staff that are not witnessed by learners are out of scope for LEO. When LEO receives such a report, it is referred to the appropriate entity including, but not limited to: UNM SOM Office of Faculty Affairs and Career Development; UNM SOM Office of Student Affairs; UNM HSC Office of Compliance; UNM Office of Compliance, Ethics, and Equal Opportunity; UNM Ombuds; UNM Human Resources; and/or UNM Hospital Human Resources.

### **4. Procedure for Reporting Mistreatment**

A complaint of behavior in violation of this policy may be made to LEO through any of the following methods:

- Filling out LEO’s online mistreatment reporting form
- Contacting LEO team members directly by phone, email, or in-person to make a report
- Writing a report of mistreatment on end-of-block evaluations, when those evaluations are referred to LEO

Each report of mistreatment will be appropriately responded to by the Learning Environment Office in a timely manner. For specific guidelines on how incidents are responded to, please refer to LEO's Learner Mistreatment Reporting & Response Procedures document.

## **5. Mandatory Reporting to Office of Compliance, Ethics, and Equal Opportunity**

If the report describes behavior that is potential discrimination and/or harassment against protected classes (defined below), it is sent to the UNM Office of Compliance, Ethics, and Equal Opportunity (CEEO), per federal and state laws and UNM policy. UNM CEEO maintains confidentiality to the extent allowable by law and UNM policy.

"Protected class" means those personal traits or characteristics, statuses, and/or beliefs that are defined by applicable law and policy, as protected from discrimination or harassment including age, ancestry, color, ethnicity, gender, gender identity (including gender expression), genetic information, national origin, physical or mental disability, pregnancy, race, religion, serious medical condition, sex, sexual orientation, spousal affiliation, and/or veteran status.

In addition to violations of Title VII and Title IX, discrimination and/or harassment against a protected class are also violations of this policy.

## **6. Anti-Retaliation Policy**

University policy is that no person shall be subject to retaliation for using or participating in a complaint process. State and federal laws and University policy protect against retaliation for reporting mistreatment, harassment, and/or discrimination. University policy further prohibits retaliation against a person for filing a complaint, participating in the investigation of a complaint or assisting others who raised a complaint.

All reports of mistreatment will be registered and investigated without fear of retaliation; the fear of retaliation can concern lowered grades, poor letters of recommendation, reduced access to learning opportunities, etc.

UNM has strong protections against and zero tolerance for retaliation. All reporters will be protected from retaliation. Retaliation is considered to be an act of mistreatment; thus, an act of retaliation against a learner for filing a report to LEO will be considered a second, separate incident of mistreatment. Threats of retaliation are similarly considered mistreatment. Any substantiated incidents of retaliation for reporting mistreatment will automatically be classified as a Level 3 mistreatment incident and will go to the Mistreatment Response Committee (see section 10).

Additionally, anyone who reports suspected misconduct in good faith is afforded whistleblower protection from retaliation by the University and the [UNM Reporting Suspected Misconduct and Whistleblower Protection from Retaliation](#).

## **7. False or Retaliatory Reports**

A false report is the submission of a report of mistreatment that knowingly includes false information, is submitted in bad faith, and is intended to harm the reputation or career of a teacher or learner, and/or to impede an ongoing LEO investigation.

In the event LEO receives clear and credible information demonstrating that a false report has been submitted, LEO will investigate as outlined herein against the party alleged to have filed a false report. A false report is considered a severe violation of this policy, and may be sent to the Mistreatment Response Committee (see section 10) or other appropriate entity for investigation and sanctioning.

## **8. Procedure for Investigating Alleged Violations of this Policy**

All reports of mistreatment will be investigated by LEO team members in a timely and consistent manner. For specific guidelines of LEO's fact finding process, please refer to LEO's Learner Mistreatment Reporting & Response Procedures document.

## **9. Recommendations for Substantiated Incidents of Mistreatment**

Substantiated incidents of mistreatment are classified on the Mistreatment Response Pyramid as Level 1-4 incidents by the investigating LEO staff members. LEO makes recommendations to the supervisor of the individual found to have mistreated a learner, who is responsible for enacting the recommendations (the "responsible party"). For details on responsible parties, please refer to LEO's Learner Mistreatment Reporting & Response Procedures document.

Levels 1 and 2 incidents may trigger non-disciplinary recommendations such as feedback conversations, communications training, and additional required professional development opportunities. Levels 3 and 4 incidents may trigger disciplinary recommendations up to and including formal monitoring, performance plans, clinical changes, and termination. All such recommendations are to be implemented by the responsible party.

## **10. Mistreatment Response Committee**

The mission of the Mistreatment Response Committee (MRC) is to review and recommend action to address high-level complaints of learner mistreatment. The MRC will assist LEO in addressing complaints

of learner mistreatment that are determined by LEO to be at Level 3 or 4 on the Mistreatment Response Pyramid. For full MRC processes, please refer to the Mistreatment Response Committee Charter.

### **11. Confidentiality, “Need to Know”, and Anonymity**

UNM strives to respect individuals’ privacy and requests for confidentiality to the extent permitted by state and federal laws (see section “Mandatory Reporting to Office of Compliance, Ethics, and Equal Opportunity”). LEO also has an obligation and responsibility to investigate mistreatment claims. To meet this obligation, LEO may be required to share information with persons who have a legitimate need to know that information. For example, those who are responsible for determining whether UNM policies have been violated or those sanctioning individuals found to have violated UNM policy have a legitimate need to know the findings made by LEO. Those who manage the processes for appeals of LEO’s findings have a legitimate need to know the details of LEO’s investigation and/or need to review the evidence underlying a finding.

When reporting via course, clerkships, or faculty evaluations it is always anonymous. When a reporter submits a report via LEO’s online reporting system, they have the option of remaining anonymous or identifying themselves to LEO. Confidentiality of reporters is always respected within the limits of the law and policy (see section “Mandatory Reporting to Office of Compliance, Ethics, and Equal Opportunity”). This means that LEO will not share the details of any case with anyone who does not need to know in order to address the mistreatment. In addition, LEO will only share the details of a report and any identifying information with the permission of the learner who was mistreated.

### **12. Appeals**

Appeals regarding LEO’s findings and accompanying recommended actions may be made to the SOM Dean with a discretionary appeal to the Executive Vice President (EVP) of the Health Sciences Center (HSC) within fourteen (14) business days of the date of the conversation recommended by LEO between the responsible party and the mistreater.

The Dean will consider an appeal only if it alleges one or more of the following extraordinary circumstances:

1. Procedural irregularity that affected the outcome
2. New evidence that was not reasonably available when the determination of responsibility was made that could affect the outcome; or
3. The LEO team member, MRC voting member, investigator, or decision-maker had a general or specific conflict of interest or bias for or against the person alleged of mistreating a learner or the learner who was allegedly mistreated, which affected the outcome.

The appeal must clearly state which one (or more) of these grounds for appeal is alleged. No other grounds for appeal will be considered. Exceptions to the time limit will only be considered on a case-by-case basis with sufficient justification provided by the individual seeking the exception.

### 13. Appeals to the Board of Regents

Under Regents Policy Manual, Section 1.5: Appeals to the Board of Regents, faculty, staff, or learners affected by a decision of the administration may appeal the decision to the Board of Regents. The Board of Regents has sole discretion to determine whether the appeal will be considered. Additional information on appeals to the Board of Regents can be found at <https://policy.unm.edu/regentspolicies/section-1/1-5.html>.

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